

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

FOUNDRY NETWORKS, INC.,	)	
	)	
Plaintiff,	)	
v.	)	C. A. No.: 06-470-SLR
	)	
ALCATEL USA RESOURCES, INC.,	)	
ALCATEL INTERNETWORKING, INC.,	)	
COMPAGNIE FINANCIÈRE ALCATEL, and	)	
ALCATEL S.A.,	)	
	)	
Defendants.	)	

**DEFENDANTS' MOTION FOR EXTENSION OF TIME TO SERVE AND FILE  
REPLY BRIEFS IN SUPPORT OF MOTIONS TO DISMISS**

Defendants respectfully move this court for a one-month extension of time, from December 11, 2006 to January 11, 2007, to file and serve their reply briefs in support of the Motion to Dismiss for Lack of Personal Jurisdiction filed by defendants Alcatel S.A, and Compagnie Financière Alcatel (D.I. 30) and the Motion to Dismiss Amended Complaint for failure to state a claim filed by defendants Alcatel USA Resources, Inc. and Alcatel Internetworking, Inc. (D.I. 35).

The grounds for this motion are that the parties, with the able and assiduous assistance of the Magistrate Judge, have reached a settlement in principle to resolve all of the claims and defenses in both the above-captioned action and in C.A. No. 05-418-SLR. Defendants are doing their part to work diligently to document and finalize the settlement.

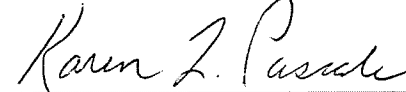
Pursuant to D. Del. Local Rule 7.1.1, the undersigned hereby certifies that Defendants' counsel has made a reasonable effort to reach agreement with Foundry's

counsel on the requested extension of time, as documented in the e-mail correspondence attached hereto as Exhibit A. Specifically, in light of the imminent settlement, Defendants' counsel contacted Foundry's counsel twice and requested a one-month extension of time, from December 11, 2006 to January 11, 2007, to file and serve their reply briefs in support of the pending motions to dismiss. Each time, Foundry's counsel responded that only a one-week extension, to December 18, 2006, had been authorized. Foundry's counsel did not respond to a request to reconsider the advisability of a one-week extension. A final telephone call to Foundry's counsel this morning confirmed that Foundry will not reconsider its "one-week extension" position.

Defendants submit that it is not realistic to expect that all of the settlement papers will be finalized and the appropriate stipulations of dismissal filed by December 18, and that weekly requests for extensions would constitute a waste of the parties' and the court's time and resources.

WHEREFORE, Defendants respectfully request that this Court grant their motion and enter an order in the form attached hereto.

**YOUNG CONAWAY STARGATT & TAYLOR LLP**



Josy W. Ingersoll (#1088) [jingersoll@ycst.com]

John W. Shaw (#3362) [jshaw@ysct.com]

Karen L. Pascale (# 2903) [kpascale@ycst.com]

The Brandywine Building

1000 West Street, 17<sup>th</sup> Floor

Wilmington, DE 19899-0551

Telephone: (302) 571-6600

*Attorneys for Defendants*

*Of Counsel:*

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Baker Botts L.L.P.  
One Shell Plaza  
910 Louisiana Street  
Houston, Texas 77002-4995  
(713) 229-1234

Dated: December 11, 2006

**CERTIFICATE OF SERVICE**

I, Karen L. Pascale, Esquire, hereby certify that on December 11, 2006, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

Philip A. Rovner, Esquire [*provner@potteranderson.com*]  
POTTER ANDERSON & CORROON LLP  
Hercules Plaza  
1313 N. Market Street  
Wilmington, DE 19801

I further certify that on December 11, 2006, I caused a copy of the foregoing document to be served by e-mail and hand delivery on the above-listed counsel of record, and on the following non-registered participants in the manner indicated:

**By E-Mail**

William L. Anthony, Esquire [*wanthony@orrick.com*]  
Matthew H. Poppe, Esquire [*mpoppe@orrick.com*]  
Michael F. Heafey, Esquire [*mheafey@orrick.com*]  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
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Garret G. Rasmussen, Esquire [*grasmussen@orrick.com*]  
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**YOUNG CONAWAY STARGATT & TAYLOR, LLP**

*Karen L. Pascale*

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Josy W. Ingersoll (#1088) [*jingersoll@ycst.com*]  
John W. Shaw (#3362) [*jshaw@ysct.com*]  
Karen L. Pascale (No. 2903) [*kpascale@ycst.com*]  
The Brandywine Building  
1000 West Street, 17th Floor  
Wilmington, Delaware 19801  
(302) 571-6600  
*Attorneys for Defendants*

# EXHIBIT A

**Pascale, Karen**

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**From:** Pascale, Karen  
**Sent:** Thursday, December 07, 2006 5:02 PM  
**To:** 'Rovner, Philip A.'  
**Cc:** 'William L. Anthony'; 'Matthew H. Poppe'; 'Michael F. Heafey'; 'Garrett G. Rasmussen'; 'Antony P. Kim'; Shaw, John; Ingersoll, Josy; 'Kantner, Robert'; 'Terrell, Irv'; 'Oliver, Rufus'; 'Partridge, Scott'; 'Scott, Mary'; Eric S. Lucas; Jim Parsons  
**Subject:** RE: Foundry v. Alcatel (C.A. No. 06-470-SLR); Alcatel v. Foundry (05-418-SLR)

Phil, I understand that the parties received an e-mail from the Magistrate today saying she thought we should try to have the cases settled and all documents signed by the end of the year. In light of the impending settlement, I do not see the sense in a one-week extension. Does Foundry really expect that the settlement papers will be finalized and the stipulations of dismissal filed by December 18? Or does Foundry just want us to have to come back and request another extension at the end of next week? That seems like a waste of time for the attorneys and also for Judge Robinson, to have to attend to stipulation after stipulation.

Karen L. Pascale, Esquire  
Young Conaway Stargatt & Taylor, LLP  
The Brandywine Building  
1000 West Street, 17th Floor  
P.O. Box 391  
Wilmington, DE 19899-0391  
Phone: 302-571-5001  
Facsimile: 302-576-3516  
kpascale@ycst.com

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**From:** Rovner, Philip A. [mailto:provner@potteranderson.com]  
**Sent:** Thursday, December 07, 2006 4:52 PM  
**To:** Pascale, Karen  
**Subject:**

Karen: I've been authorized at this time to agree to a one week extension. Accordingly, I've revised the stipulation further extending Alcatel's time to file reply briefs until December 18, 2006. You are authorized to file the attached stipulation.

*Philip A. Rovner, Esq.*  
*Potter Anderson & Corroon LLP*  
*P.O. Box 951*  
*1313 N. Market Street*  
*Wilmington, Delaware 19801*  
*(302) 984-6000 (main)*  
*(302) 984-6140 (direct)*  
*(302) 658-1192 (fax)*  
*provner@potteranderson.com*

12/11/2006

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**Pascale, Karen**

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**From:** Pascale, Karen  
**Sent:** Thursday, December 07, 2006 4:49 PM  
**To:** 'Rovner, Philip A.'  
**Subject:** RE: Foundry Networks, Inc. v. Alcatel USA Resources, Inc. et al., C.A. No. 06-470-SLR  
**Attachments:** (5649379\_1)\_Foundry v. Alcatel\_ Stipulation for Extension of Time on Reply Briefs [12-05-06 draft].DOC



(5649379\_1)\_Foundry v. Alcatel...

Phil: Have you had an opportunity to ask Jim Parsons about a one-month extension for the filing of defendants' reply briefs in support of the motions to dismiss?

Thank you,

Karen

Karen L. Pascale, Esquire  
Young Conaway Stargatt & Taylor, LLP  
The Brandywine Building  
1000 West Street, 17th Floor  
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-----Original Message-----

From: Rovner, Philip A. [mailto:provner@potteranderson.com]  
Sent: Wednesday, December 06, 2006 10:13 AM  
To: Pascale, Karen  
Subject: RE: Foundry Networks, Inc. v. Alcatel USA Resources, Inc. et al., C.A. No. 06-470-SLR

Karen: I don't have authority at this point to agree to any more than a one week extension. I suggest that we hold off filing a stipulation until tomorrow. Jim Parsons will be back in the office and I can speak to him then about a longer period.

-----Original Message-----

From: Pascale, Karen [mailto:kpascale@ycst.com]  
Sent: Tuesday, December 05, 2006 6:18 PM  
To: Rovner, Philip A.  
Cc: William L. Anthony; Matthew H. Poppe; Michael F. Heafey; Garrett G. Rasmussen; Antony P. Kim; Shaw, John; Ingersoll, Josy; Kantner, Robert; Terrell, Irv; Oliver, Rufus; Partridge, Scott; Scott, Mary  
Subject: Foundry Networks, Inc. v. Alcatel USA Resources, Inc. et al., C.A. No. 06-470-SLR

<<(5649379\_1)\_Foundry v. Alcatel\_ Stipulation for Extension of Time on Reply Briefs [12-05-06 draft].DOC>>

Dear Phil: In light of the pending settlement in this action (and in C.A. No. 05-418-SLR), we believe it makes sense to postpone by one month the filing of defendants' reply briefs in support of the motions to dismiss, in order to permit



finalization of the settlement (and, hopefully, prompt filing of the appropriate stipulations of dismissal).

Please review the attached draft stipulation, and let us know whether it is acceptable.

Thank you,

Karen

Karen L. Pascale, Esquire  
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ALCATEL INTERNETWORKING, INC.,	)	
COMPAGNIE FINANCIÈRE ALCATEL, and	)	
ALCATEL S.A.,	)	
	)	
Defendants.	)	

**ORDER**

At Wilmington this \_\_\_\_ day of \_\_\_\_\_, 2006, having considered Defendants' motion for extension of time to serve and file reply briefs in support of their motions to dismiss (D.I. 30 and 35), and the parties' arguments in support of and in opposition to the motion,

IT IS HEREBY ORDERED that that the time for defendants to serve and file reply briefs in support of the Motion to Dismiss for Lack of Personal Jurisdiction filed by defendants Alcatel S.A, and Compagnie Financière Alcatel (D.I. 30) and the Motion to Dismiss Amended Complaint for failure to state a claim filed by defendants Alcatel USA Resources, Inc. and Alcatel Internetworking, Inc. (D.I. 35) is hereby extended from December 11, 2006 to January 11, 2007.

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United States District Judge